

PART I – Case Information and Contact Information

Case Name: Smith v. WhaleCo Inc. District Court Case Number: 5:23-cv-00559-D
District Court: U.S.D.C., Western Dist. Of Okla. Circuit Court Appeal Number: 24-6155
Name of Attorney/Pro Se Party Completing this Form: John A. Burkhardt / Benjamin G. Shatz
Name of Law Firm/Office: Schaffer Herring PLLC / Manatt, Phelps & Phillips, LLP
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Attorney For: Appellant WhaleCo Inc.

PART II – Complete one section below to indicate whether you are ordering transcripts.☒ **I am not ordering a transcript because (check one):**

- ☒ a transcript is not necessary for this appeal **[There was no hearing];**
☐ the necessary transcript is already on file in the district court; or
☐ the necessary transcript was ordered previously in appeal number _____.

☐ **I hereby order the following transcript(s) from _____** (name of court reporter). One form may be used to order multiple transcripts from the same court reporter, **but separate forms must be filed for each court reporter** from whom a transcript is ordered. **Please be specific if ordering partial transcripts** (e.g., voir dire).

Name of Proceeding	Date of Proceeding	Dist. Ct. Doc. No.	Delivery (30-, 14-, 7-, 3-Day, or Daily)

PART III – Choose the manner of payment for the transcript(s) ordered.

☐ This case is **NOT proceeding under the Criminal Justice Act**. I will pay the cost of the transcript. My signature on this form is my agreement to pay for the transcript(s) ordered on this form, and **I understand that I must make satisfactory payment arrangements with the court reporter(s) before work to prepare the transcript will begin.**

☐ This case **IS proceeding under the Criminal Justice Act, and (check one):**

- ☐ I am a Federal Public Defender. The Defender's Office will pay the cost of the transcript(s).
☐ I am a CJA Panel Attorney, and I will take all steps required in eVoucher to complete payment arrangements.

NOTE: Leave to proceed *in forma pauperis* does not entitle appellant to a free transcript. An order of the district court allowing payment for the transcript at government expense must be obtained. See 28 U.S.C. §753(f).

Part IV – Attorney's/Ordering Party's Certificate of Compliance

I, John A. Burkhardt, certify that I have (1) read the instructions on the reverse of this form; (2) filed copies of this completed form in **both** the U.S. District Court and the Tenth Circuit; and, if ordering transcripts, (3) provided a copy of this completed form to the court reporter(s) and **made satisfactory payment arrangements** for all transcripts I am ordering. **I understand I must send a copy of this form directly to the court reporter(s) in addition to filing it.**

Attorney's/Ordering Party's Signature: s/John A. Burkhardt & s/Benjamin G. Shatz Date: 8/2/2024

PART V – Court Reporter's Certificate of Compliance (Complete After Payment Arrangements Have Been Made)

Date Payment Arrangements Made	Estimated Completion Date	Number of Pages	Date(s) of Hearing(s)/Proceeding(s)

I, _____, certify that (1) I have read the instructions on the reverse side; (2) adequate payment arrangements have been made; (3) I will provide a copy of this completed form to the Tenth Circuit Clerk's Office; and (4) I will provide any required notice to the U.S. District Court Clerk's Office.

Signature of Court Reporter: _____ Date: _____

DIRECTIONS FOR USING THE TENTH CIRCUIT TRANSCRIPT ORDER FORM

Federal Rule of Appellate Procedure 10, Tenth Circuit Rule 10, and the Appellate Transcript Management Plan for the Tenth Circuit (Appendix B to the Tenth Circuit Rules) set forth the transcript-related responsibilities of parties and court reporters with respect to transcripts ordered for use in an appeal. Those responsibilities are summarized below. The Tenth Circuit Clerk's Office is available to answer questions regarding this form or related aspects of the Circuit's policies and procedures. Questions about payment arrangements, completion dates, and related issues should be directed to the appropriate court reporter or district court Clerk's Office.

APPELLANT'S RESPONSIBILITIES

Whether or not a transcript is ordered, within 14 days of the date the notice of appeal is filed Appellant or Appellant's counsel must:

- (1) Complete Parts I, II, III, and IV of this form;
- (2) File copies of the completed form in **both** the U.S. District Court and the Tenth Circuit; and
- (3) Serve copies of the completed form on all parties to the appeal.

If ordering transcripts, also within 14 days of the date the notice of appeal is filed Appellant or Appellant's counsel must:

- (1) Send a copy of this completed form to the court reporter (one form per court reporter is required) from whom the transcripts are being ordered (filing of the form does NOT constitute notice to the court reporter(s)); and
- (2) Make payment arrangements with the court reporter(s). *See* 10th Cir. R. 10.2(B)(3). Per 28 U.S.C. §753(f), a court reporter may require a deposit equal to the full estimated cost of the transcript.

Appellant or Appellant's counsel should also **note the following** regarding transcripts on appeal:

- (1) Unless the entire transcript is ordered, Appellant shall serve on Appellee(s) a statement of the issues Appellant intends to present on appeal. *See* Fed. R. App. P. 10(b)(3). The Docketing Statement required by 10th Cir. R. 3.4 fulfills this requirement.
- (2) Those portions of the transcripts that are pertinent to the appeal must be included in Appellant's appendix or, in cases where counsel is appointed, designated for inclusion in the record on appeal. *See* 10th Cir. R. 10.2, 10.3 and 30.1.
- (3) One form may be used to order multiple transcripts from the same court reporter, but a separate form must be completed and filed for each court reporter from whom a transcript is ordered.

APPELLEE'S RESPONSIBILITIES

Unless the entire transcript is ordered, Appellee may, within 14 days after service of Appellant's transcript order and statement of the issues, file and serve on Appellant a designation of additional transcript(s). If, within 14 days, Appellant does not order and pay for the additional transcript(s) so designated, Appellee may, within 14 additional days, order and pay for the transcript or move in the district court for an order compelling Appellant to do so. *See* Fed. R. App. P. 10(b)(3).

COURT REPORTER'S RESPONSIBILITIES

Upon receipt of this form and after satisfactory payment arrangements have been made, the court reporter must promptly:

- (1) Complete Part V and send the completed form to the Tenth Circuit Clerk's Office; and
- (2) Provide any required notice to the U.S. District Court Clerk's Office.

When completing Part V of this form, **court reporters are reminded that** transcripts in a criminal case (including proceedings under 28 U.S.C. §§ 2241, 2254, 2255) must be filed within 30 days of the date payment arrangements are made, and transcripts in a civil case must be filed within 60 days of the date payment arrangements are made. Per the Appellate Transcript Management Plan for the Tenth Circuit, which can be found at Appendix B to the Tenth Circuit Rules, **court reporters are subject to a mandatory fee reduction if transcripts are not timely filed.**